Landscapes of refugee protection

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Abstract:

In this paper, I argue that conditions for asylum seekers in countries who have signed the 1951 Convention and 1967 Protocol Relating to the Status of Refugees (hereafter 'Convention') are increasingly paralleling those in non-signatory countries. The similar deterioration of treatment of asylum seekers is symptomatic of the disintegration of the existing refugee protection system established by the Convention. This paper focuses on the case of Thailand, a non-signatory country that has been widely criticised for its treatment of refugees, and compares three significant trends in refugee protection to those in the UK. In Thailand as well as the UK, protection takes shape as ad hoc, arbitrary, and differentially applied across space, leading to extreme precariousness. Two concepts frame my comparison of the Thai and UK contexts: the *landscapes of protection* that encompass the range of practices engaged in refugee governance, from signed treaties to soft laws, subcontracted service providers, and substandard media coverage; and the *graduated* levels of protection that rely on spatial logics to manage access to protection and shapes both refugees' imagined futures as well as their present status. This comparison challenges the implicit distinctions between developed and developing countries, as well as signatories and non-signatories to the Convention, that have predominated in refugee scholarship, and extends recent scholarship that deconstructs the coherence and authority of the nation-state. I conclude that these presumed divisions are not only inaccurate, but mask the precarious and dangerous realities that asylum seekers and refugees face in both locations. Increasingly, the protections offered by the Convention have become a façade for arbitrary and harmful treatment of refugees.

Keywords:

Refugees, landscapes of protection, graduated protection, Thailand, UK

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I. Introduction

The conditions of asylum seekers in countries like the UK that are signatories to the 1951 Convention on the Status of Refugees and the accompanying 1967 Protocol are generally believed to be superior to those in non-signatory countries, often characterised by protracted displacement and sprawling refugee camps (Napier-Moore, 2005). Yet refugee treatment in signatory countries may be equally dire. In 2010, Williams and Kaye authored a report documenting the conditions of destitution faced by refused asylum seekers in the UK. They tell the story of Geraldine, beaten for joining an opposition movement in Zimbabwe, who was refused asylum in the UK and left destitute. Geraldine recalled that, "Often all I have to eat in a day is a bowl of porridge. I'm surviving on about £3 a week. I have to beg people I know for cash… I'm getting more and more scared." Eventually, Geraldine was hospitalised for malnutrition and received protection in the UK (William and Kaye, 2010, p.55). The British Red Cross argued that the treatment of asylum seekers like Geraldine bore many similarities to those sprawling refugee camps, noting:

> Some of the circumstances that the British Red Cross have witnessed in dealing with destitution (in the UK) have shown a degree of suffering and inhumanity that if we… witnessed them in a different environment, such as an area of natural disaster or a conflict zone, we would be shocked into making an immediate emergency response (William and Kaye, 2010, p.7).

In this paper, I argue that conditions for asylum seekers in signatory countries are increasingly paralleling those in non-signatory countries. The similar deterioration of treatment of asylum seekers across the board is symptomatic of the disintegration of the existing refugee protection system established by the Convention. This paper focuses on the case of Thailand, a non-signatory country that has been widely criticised for its treatment of refugees, and compares three significant trends in refugee protection to those occurring in the UK, a signatory country. In Thailand as well as the UK, protection takes shape as ad hoc, arbitrary, and differentially applied across space, leading to extreme precariousness. Two concepts frame my comparison of the Thai and UK contexts. First, the *landscapes of protection* that encompass the range of practices engaged in refugee governance, from signed treaties to soft laws, subcontracted service providers, and substandard media

coverage—as Fassin et al. (2017, p.183) describe, such landscapes encompass the entirety of factors that converge to construct asylum seeking "as a form of life" from the legal uncertainty to the material and emotional terrain of everyday living. Secondly, the *graduated* levels of protection that rely on spatial logics to manage access to protection and shapes both refugees' imagined futures as well as their present status. I conclude that presumed divisions based on signatory status mask the dangerous realities that asylum seekers and refugees face in both locations. Increasingly, the protections offered by the Convention have become a façade for arbitrary and harmful treatment of refugees.

Comparing Thailand and the UK makes sense for several reasons: Thailand and the UK are roughly equivalent in population, and are states with fairly strong political clout in their respective regions whose migration policies are (currently) dominated by regional agreements. Both countries have a significant history with supporting refugees, yet both are often characterised as having the potential to do more. The UK has been criticised for dealing with just 38,370 or 3.1 percent of EU asylum claims in 2015 (Oxfam, 2016), and, compared with neighbouring countries, having lower rates of approval for refugee claims, less financial support for asylum seekers, poorer quality housing, stricter rules for asylum seekers working, and routinely forcing refugees into destitution and homelessness (Lyons et al., 2017). Thailand, on the other hand, despite hosting millions of refugees, has been described by Human Rights Watch (2012, p.4) as having refugee policies that are "fragmented, unpredictable, [and] inadequate."

The two countries have strikingly different historical and political contexts, and cultural understandings of asylum and refugee status. To compare the Thai and UK contexts is not to assert their equivalence, but to highlight the increasingly similar logics and strategies for refugee governance emerging *simultaneously* from signatory and non-signatory status locations. As I describe, approaching this comparison through a framework focused on 'landscapes of protection' in both contexts suggests that similar logics and tactics around the use of 'soft laws' and bureaucratic

repositioning construct ad hoc, often arbitrary, and constantly changing policy frameworks for governing refugees. These strategies are also connected to the graduated production of protection: *where* refugees are within the state matters immensely to their refugee outcomes. Comparison across national contexts makes visible the *everyday* nature of these governance strategies, amidst a global context where refugee governance is often positioned as a response to 'exceptional crises' and 'emergencies.' Indeed, whereas both countries have faced 'refugee crises' in the past few years (Europe's influx of asylum seekers in 2015-2016 as well as Thailand's influx of Rohingya asylum seekers during the 'Andaman Sea crisis' of 2015), it is important to deconstruct the rhetoric of emergency that have characterised state responses to refugee arrivals, as Collyer and King (2016) note. Indeed, Hinger (2016) notes that the long-term strategies of dispersal, deterrence and discomfort, discursively and materially *produce* the framework of refugee 'crises.' Understanding the landscapes of protection helps to deconstruct the panicked rhetoric states use to authorise increasingly draconian approaches to refugee governance.

Framing conditions of protection in Thailand as paralleling conditions in the Global North has several important implications. Most importantly, this comparison exposes the instability of Convention-based approaches to protection that elevate signatories without appropriate scrutiny. Signatories to the Convention face few consequences for ignoring its terms, as cases such as Australia's detention facilities demonstrate. This approach also takes aim at the nation-state framework itself. By relying on a system of state-by-state adherence to the Convention, refugee protection depends on nation-states demonstrating consistent treatment of refugees. Convention protection does matter, as I describe in the following section. Yet this analysis demonstrates the importance of deconstructing the nation-state as the accepted term of reference within refugee protection.

As geographers such as Darling (2016) and Hiemstra (forthcoming) note, assumptions about nation-states' coherence and authority have been challenged by poststructuralist state theorists for years, yet the nation-state continues to be the key unit of analysis within border studies. When scholars

argue for inconsistent applications of state authority towards refuges, they often employ the language of exceptionality: the camp (Kitagawa, 2007), the border spaces (Salter, 2008), the extraterritorial (Mountz, 2010). Recent literature on refugees in the city (Darling, 2016; Sanyal, 2012) have explored the disaggregation of the state and the differentiated application of state forms of control in urban spaces, usefully interrogating the role of 'the' nation-state as a coherent actor, framing state activities as strategic yet also differentiated, purposeful yet not always exceptional, much like I approach the activities of the states in this analysis.

While 'the' state may not be a coherent actor, it is often assumed to be within the field of refugee studies: this analysis aims to unsettle this premise. However, there exists a larger paradox between territories and citizenship regimes of states and what Fudge (2014: 30) terms the "structural causes of many injustices" that drive refugee mobility. International human rights attempt to provide a universal framework 'beyond' the terms of nation-state citizenship, but are limited by their application on a state-by-state basis. These limitations "question the utility of human rights discourse as a normative vocabulary and institutional assemblage" for understanding precarious migration (Fudge, 2014, p.36). The uneven landscapes of protection described here underscore the need to reconceptualise protection and, ultimately, citizenship on both a transnational level "beyond notions of boundedness" (Rygiel, 2016, p.547) as well as at scales below that of the nation-state, as Bauder (2014) proposes.

My argument for the need to consider signatory and non-signatory landscapes of protection in parallel also reflects trends within the literature on borders and refugee protection. As Cons and Sanyal (2013) argue, most contemporary writing on borders uses examples from the US and Europe, and assumes trends from the Global North are unproblematically reproduced in the Global South, failing to recognise distinctive conditions of marginality. Chimni (1998), however, argues that part of the distinctiveness of Global South refugee regimes is a discursive construction, and traces the development of what he terms the myth of difference between Global North and South. Chimni

(1998) writes that the characterisation of refugee flows within third world countries as different was itself part of a geopolitical and racialized framework, and that similarities, rather than difference, characterise refugee movements.

Despite the ongoing attention to the questions of similarity between protection regimes, geographical literature on borders and refugee flows has tended to focus on particular—and different—aspects of refugees in signatories from non-signatories (Sanyal, forthcoming). Discussions of camps, for example, often break down along lines of signatory status: Agamben's (2005) paradigmatic spaces of the camp are used to debate detention spaces in signatory countries such as the US's Guantanamo Bay (Gregory, 2006) or Australian island detention facilities (Perera, 2010), whereas the refugee camps of non-signatory countries (e.g. Ramadan, 2013) are often framed through perspectives on protracted displacement and resettlement. Indeed, as Darling (2016) argues, camps are framed as exceptional spaces in signatory countries, and simultaneously as the proper normative space for refugees elsewhere. Climate and environmental refugees (Biermann and Boas, 2010) tend to be debated non-signatory countries, whereas urban refugees and resettlement issues are discussed amongst signatories (Darling, 2016). Such tacit divisions within geographical literature on refugees perpetuates the separation of spaces of refugee protection, even as people themselves often bridge these protection regimes during their own journeys. What is necessary, as Gill (2010: 638) writes, is to be "attentive to the complex geographies of connection and disconnection between different sites, practices and assemblages through which asylum and refugee governance is achieved."

The paper proceeds as follows: I begin by contextualising refugee management in Thailand as well as the recent influx of migrants and asylum seekers to the UK, then turn to three areas of analysis. First, I outline the ad hoc and arbitrary practices emerging from each 'landscape of protection.' Then, I turn to the graduated protection of refugees across the space of the nation-state. Finally, I claim that ad hoc and graduated practices jeopardise refugees' possibilities for everyday survival. Together,

these examples raise questions about the commonalities between countries that increasingly turn to similar quasi-legal frameworks to deter refugee arrivals and limit their access to asylum. This comparison allows for an interrogation of what the Convention offers contemporary refugees, and how landscapes of protection are deteriorating in similar ways across the globe.

II. Project design: Convention promises and precarious methods

Written as a response to the mass displacement of people in Europe after World War Two, the 1951 Convention has been criticised for the limited timeframe and geographic scope through which signatories envisioned the issue of refugees. However, Jackson (1991) maintains that its approval by the UN General Assembly indicate that drafters imagined its principles to be *universally* applicable. The Convention's Article 7 mandates that signatory states will "accord to refugees the same treatment as is accorded to aliens generally" aside from cases where the Convention promises *more* generous treatment of refugees (UNHCR, 2011). For example, the principle of *nonrefoulement,* which states that refugees must not be forcibly returned, may be stricter than conditions governing expulsion of ordinary foreigners (Jackson, 1991). The Convention prohibits penalising asylum seekers for irregular entry (Article 31), as well as restricting their freedom of movement because of their method of arrival (Jackson 1991). International law upholds the binding nature of these provisions within the Convention, for example, in the European Court of Human Rights' decision in *Amuur v. France,* the court maintained that detaining asylum seekers:

> Is acceptable only in order to enable States to prevent unlawful immigration *while complying with their international obligations*, particularly under the 1951 Geneva Convention Relating to the Status of Refugees and the European Convention on Human Rights. States' legitimate concern to foil the increasingly frequent attempts to circumvent immigration restrictions *must not deprive asylum seekers of the protection afforded by these conventions*" (italics mine, Goodwin-Gill, 2001, p.19).

The terms of the Convention include provisions for freedom of movement as well as the right to "engage in wage-earning employment" after three years residence (UNHCR, 2011). As Jackson (1991) writes, the Convention stresses economic and social rights, particularly those facilitating assimilation of refugees. Such provisions have generally meant that signatories to the Convention

have been held to higher standards than non-signatories; for example, critical responses to Australia's 'Pacific Solution' in 2001 drew heavily upon the expectations for treatment of refugees under the Convention (Edwards, 2003; Mathew, 2002).

Despite decades of refugees, legal frameworks for protection in the Asia-Pacific region are ineffective. Few countries have signed the Convention, and regional cooperative frameworks such as ASEAN or the Bali Process generally characterise forced migrants as security threats controlled by criminal smuggling and trafficking operations rather than refugees in need of protection (Kneebone, 2014). Thailand's ineffective response to refugees has been contextualised within criticisms of the Convention stressing its Eurocentric history and the burdens it places on signatories that may not be possible to uphold for developing countries (McConnell, 2013; Saxena, 2007). While there *are* important differences between signatory countries and non-signatory countries like Thailand, where permanent protection for refugees with successful claims is *never* a possibility, Thailand's history of refugee reception indicates its *capacity* for refugee protection, and the tacit agreements that structure refugee lives within Thailand suggest its engagement with refugee governance. However, Thailand has approached refugees in the context of the Indochinese refugee crisis of the 1970s, where countries agreed to voluntary, short-term contributions rather than assuming long-term protection obligations. Refugees are considered the responsibilities of the UNHCR, the UN agency for refugees, and western countries to resettle out of the region.

Within Thailand, refugees and asylum seekers lack official status or protection. The two main laws governing migration to Thailand are the Thailand Immigration Act (1979) and Foreign Employment Act (2008), both of which consider refugees as 'illegal' migrants. Major cross-border migration flows between Thailand and neighbouring Cambodia, Laos and Myanmar are primarily managed through temporary and ad hoc cabinet decisions that prioritise governing flows depending on Thai employers' needs (Latt, 2013). Latt (2013) argues that the inclusion of forced migrants within Thai law as 'illegal' and the subsequent use of tacit or arbitrary policy mechanisms to govern this

population are in fact legal processes that produce illegal migrants. The refugees that enter Thailand engage with a system characterised by informal decision-making that leaves them vulnerable to many levels of exploitation and abuse.

UNHCR estimates for 2015 include 55,000 refugees as well as 53,000 persons in 'refugee-like situations', as well as 8,200 asylum seekers and over 440,000 stateless people within Thailand (UNHCR, 2016b). Advocates I spoke with estimated that there are about 140,000 refugees in the nine border camps alongside Myanmar, with an additional 1-3 million Burmese living as irregular migrants throughout the rest of the country. In addition, advocates estimate that 8,000-12,000 officially unrecognised refugees live in Bangkok, which tallies with UNHCR refugee status determination cases amongst urban refugees (UNHCR, 2016b).

As I will detail below, the ad hoc and arbitrary policies coupled with the graduated treatment of refugees across space that perpetuate refugees' destitution within Thailand resonate with current practices towards refugees within the UK. While the UK has signed the 1951 Convention and 1967 Protocol, its treatment of refugees increasingly does not reflect the high standards outlined in these international agreements. The UK prioritises financial support of other countries hosting refugees, rather than resettlement efforts, critics claim, and reports note that despite the surge in refugee numbers in 2015 (over one million migrants arrived to Europe by sea, most of which are likely to be considered refugees under the Convention) the UK has only taken on just over 3 percent of these arrivals (Oxfam, 2016). These 38,370 arrivals join the approximately 120,000 refugees living in the UK (British Red Cross, 2017). In both places, 'official' refugee counts are complicated by the proliferation of multiple forms of protection status and bureaucratic categorisations that have eroded protection across the board (Zetter, 2007).

This analysis is based primarily on two months of field research undertaken in Bangkok and Chiang Mai, Thailand in 2015. While I had conducted related research on asylum in Australia and Indonesia, this was my first research in the Thai context. Over thirty semi-structured interviews with individuals

including Thai immigration policy-makers, members of Thai and international migration NGOs, and scholars studying regional migration issues (in English) focused on the Thai and regional landscapes of refugee protection. I was restricted to interviewing members of NGOs (mostly non-Thai) and policymakers (mostly Thai) by the terms of my agreement with the Thai government as part of receiving a research visa, which forbade me working directly with migrants or refugees themselves. Partnering with the Asian Research Centre for Migration at Chulalongkorn University allowed initial access to several interviewees, and I broadened the network of participants both through personal connections as well as the snowball method.

The fieldwork took place in a very tense environment before and after the 17 August 2015 Erawan Shrine bombings in Bangkok, an event the Thai government suggested was connected to Thailand's *refoulement* of over 100 Uighur asylum seekers to China. Given this context, and because of the extremely limited number of refugee advocates in Thailand, nearly *all* identifying information (including gender, age, and ethnicity) of respondents is retracted to allow for their candidness. If, for instance, a respondent was identified as a member of a religious order and a woman over the age of 60, she would be immediately identifiable. Advocates themselves have very precarious access to refugees to provide legal support or humanitarian assistance, and identifying respondents in such a manner could jeopardize their ability to do their work. The comparative case material from the UK is based on secondary sources and informed by a 2016 pilot study of refugee assistance in northeast England that involved ten semi-structured interviews with members of refugee support organisations. While the UK source material does not provide the ethnographic depth of the Thai sources, I argue that the comparative framework still allows for a productive reading of the development of ad hoc strategies, graduated protection, and increased precariousness across national contexts.

III. Landscapes of protection: ad hoc and arbitrary

The Convention provisions that refugees be offered the same treatment as other foreign nationals imply that policies must be consistently applied, and related international human rights law rulings since its inception have specifically barred discrimination. The Convention also prohibits arbitrary treatment in the case of detention (UNHCR, 2011). The UNHCR's *Detention Guidelines* (2012) notes that indefinite detention or detention based upon mode of arrival are always arbitrary policies and prohibited under the Convention, and that arbitrary policies are both unlawful and contrary to Convention principles because of their "elements of inappropriateness, injustice, or lack of predictability" (UNHCR, 2012, p.15). Despite such strong language, however, arbitrary and ad hoc policies are increasingly structuring refugee governance in Thailand and the UK.

Thailand's approach towards refugees is ad hoc and arbitrary. One migrant advocate characterised Thailand as the "wild west" of immigration practices: "There are no legal frameworks. Everything is a moving target." Yet I argue that the 'wild west' of Thailand's fluid refugee practices does *not* exist outside of legal frameworks, but rather that Thai approaches towards refugees are ad hoc because of their *inclusion* within the law. The elasticity of legal frameworks that encompass soft and hard laws point to larger issues with a focus on legal regimes: too often, refugee governance is not simply a matter of laws on the books, but consists of an assemblage of laws and practices, NGO procedures and unwritten custom, personal decisions and media depictions. As Hinger et al. (2016: 453) write, asylum seekers exist within a "place-specific process-structure and socio-political order which encompasses much more than local politics," what they term a "landscape of asylum." I build on this understanding to consider the landscapes of protection more broadly in both the Thai and UK context, extending beyond asylum to look at the varieties of practices and policies that shape protection, both formal and otherwise, for refugees. Landscapes of protection encompass geographies both above and below the nation-state, extending vertically, as Hinger et al. (2016) note, to include supra-local influences such as regional or international agreements, as well as accounting for both formal policies, everyday practices, and the affective climates that infuse refugees' lives with precariousness from negative media coverage, hostile rumour, or exploitation. A

focus on the landscape rather than simply the laws governing protection highlights the roles of procedures and soft laws that work within existing legal formations to limit protection for refugees.

According to a long-time refugee advocate, the Thai government's approach to refugees has "never had a long term goal, but instead is just the political flavour of the time." Relatively open policies towards Burmese refugees in the 1980s, for example, were replaced by crackdowns on refugees in the 1990s. Restrictions eased in the early 2000s after democratic elections in Myanmar, but shifted again in 2014 with the Thai military coup. Refugees both in the border and urban areas were targeted for increased arrests and crackdowns, and refugee advocates reported that camp residents were afraid for their safety. Yet the military government's approach to refugees too, has been inconsistent since the initial crackdowns: whereas the government prioritised the arrests of Thais involved in migrant smuggling operations in 2014 and 2015, by 2015 the Thai government had closed its main trafficking investigation unit.

The fluidity of Thai government attitudes towards refugees and the lack of legal recognition of asylum means that nearly all policies and practices directed at refugees operate unofficially. Asylum seekers and refugees are considered 'illegal migrants' within this landscape of protection, subject to exploitation, arrest, indefinite detention, and deportation. Cases of *refoulement*, such as the 109 Uighers deported to China in 2015, remain common. Thailand's goal, as one advocate noted, is *not* "to make [refugee hosting] acceptable, because even if they don't open the door, they have too many here already." Therefore the response to refugees has always remained *deliberately* unofficial, subject to trends in the region and internal power struggles. Practices such as permission for the UNHCR to make refugee status determinations are granted outside of legal frameworks. For example, the government, as one advocate described, "closes one eye and lets it happen," allowing UNHCR to make status determinations and push for urban refugee resettlement, but its tacit permission could be withdrawn at any point. Permissive attitudes also inconsistently filter down to the level of everyday practices. Local police exploit and arrest asylum seekers even during periods of

tacit permisssiveness. As a long-time advocate for refugees described, “The system is constantly changing, very arbitrary.”

Examples of the ad hoc and arbitrary nature of the Thai protection landscape include everyday arrests or crackdowns, conditions of detention, and more extraordinary events such as deportation or *refoulement* (Tat, 2014). Indeed, as a migrant service provider explained, “People are frequently re-arrested. People we feed [at our organisation] on Monday, we see on Friday at the [detention centre] and they tell us where their family is.” Similar levels of arbitrary and constantly changing conditions are observed by advocates in the Thai immigration detention centres. One long-time advocate recounted how in the past, visiting individual rooms to find migrants who needed help was common. Now, “they keep putting up new rules. They now have fingerprint identification, and you’re only allowed upstairs. You have to tell them who you want to see... This keeps happening and we keep struggling, always.”

Ad hoc Thai practices could be attributed to the *exclusion* of irregular migrants from official legal frameworks—but I argue that rather than existing outside of Thai law, Thai approaches to refugees are ad hoc precisely because of their *inclusion* within the law. The current government, advocates noted, has the opportunity to amend the immigration law to recognise categories of migrants but chooses not to (as of 2017). Instead, special circumstances under the current law are the basis for government action: for example, advocates described how the Ministry of the Interior makes announcements which become ad hoc ‘soft laws,’ laws that determine policies towards refugees at any given time. Many practices do not even get documented at the level of such soft laws. Refugee practices become embedded in “gaps within the laws themselves,” as one advocate said. The ad hoc nature of Thai practices towards refugees involves the deliberate use of gaps within existing legal frameworks.

Like in Thailand, the UK’s refugee governance is often guided by the ‘political flavour’ of the time, despite its signatory status. Yet as a signatory, the UK faces little scrutiny of the increasingly ad hoc

governance of refugees. In 2017, the UK (operating as a country within Europe) continues to abide by the Schengen agreements that abolish border controls within the European Union (EU). Responsibilities for asylum seekers have been determined under the Dublin Regulations (currently Dublin III) first signed in 1990, which state that the EU member nation where the asylum seeker is first registered to have officially entered the EU is responsible for processing that person. Yet the numbers of asylum seekers overwhelming countries of entry and the attempts by asylum seekers to skirt Dublin III Regulations by avoiding registration until they reach Northern European countries, have meant that the Dublin Regulations and the Schengen Agreements more generally have broken down (UNHCR, 2016a). Increasingly, the UK is instead responding to the refugee arrivals using arbitrary and ad hoc measures that echo the practices of non-signatories such as Thailand, particularly through the use of 'soft laws' to make policy changes.[i]

Approaching refugee governance in the UK through the lens of landscapes of protection allows a comprehensive understanding of the hostile climate faced by refugees, from the informal harassment and discrimination to the formal legal practices that determine protection possibilities. The landscape of protection for UK refugees does provide a legal mechanism for filing and evaluating asylum claims. Yet, as Lyons et al. (2017) note, compared to other western European countries, the UK takes in fewer refugees, offers less financial support, provides substandard housing and limited rights to work, and routinely pushes refugees into conditions of destitution and homelessness. Despite the UK's historic role as a resettlement destination for refugees, taking into account the wider landscape of protection, from the signed treaties and agreements with NGOs to the everyday levels of service provision, hostile political shifts, and negative media climate, underscores the vulnerability of refugees within the UK context. Here, too, policymakers are increasingly turning to ad hoc and occasionally arbitrary tactics for governing refugee populations. Often, these measures are deployed less as drastic, overarching policy shifts but in the guise of minor changes in bureaucratic categorisations, similar to the Thai use of soft laws that constantly change in order to perpetuate insecurity.

Ad hoc policies often operate on the level of asylum case guidance. For instance, Reed and Eley (2015) document the effect of Home Office guidance in March 2015 that re-categorises risks to Eritreans fleeing persecution. New terminology stressing that only those who have been 'politically active' will qualify for refugee status meant that dozens of Eritreans were immediately denied asylum despite claiming to be fleeing violence or state repression (Reed and Eley, 2015). Another example of ad hoc policy measures reframing the terms of protection for refugees are the terms by which refugees have access to visas to arrive in the UK. In March 2015, for instance, Syrian nationals were no longer permitted to receive 'transit without visa' for travel to the USA, a policy specifically designed to reduce the numbers of Syrians making asylum claims in the UK. Subsequent approvals for Syrians seeking visas to travel to the UK dropped from 70 to 40 percent between 2010 and 2015 (Oxfam, 2016). Such changes use easily interchangeable bureaucratic procedures not to contest refugees' rights to claim asylum, but to limit the terms of and access to claims for protection.

Arbitrariness affects the UK landscape for protection as well. For instance, criteria are applied in often-arbitrary ways to limit access to asylum in the selection of refugees for resettlement, as Save the Children (2017) document in the case of unaccompanied minors. They note that resettlement of children from Europe, particularly Calais, was based on "arbitrary" age and nationality criteria, and that the repercussions of these arbitrary categories were exacerbated by the UK's refusal to resettle the number of child refugees it had promised (Save the Children, 2017). Arbitrary time limits are also common methods of making the UK landscape of protection more hostile to refugees. For instance, the return of the fast track system to process deportations of detained asylum seekers and ex-offenders in 2017 introduces caps on appeals, limited asylum seekers' access to fair hearings for their cases (Ciara, 2017). Alternatively, the *lack* of time limits on detention means that migrants in UK detention centres often face arbitrary lengths of imprisonment. Arbitrary closures of the EU land borders are also connected to UK border enforcement and UK refugee governance: border closures based on nationality in places such as Austria, Hungary, Slovenia, Serbia, Croatia, and the former Yugoslav Republic of Macedonia in 2015-16 restricted refugees' access to asylum claims in the UK,

and the UK's role in bolstering such discriminatory border closures through its donation of military equipment to reinforce the Bulgarian border testify to the close connections between UK border enforcement and EU border closures (Oxfam, 2016).

The UK landscape of protection involves constantly changing regulations at all levels of the asylum process. These rules can be designed and implemented in arbitrary and ad hoc ways. The atmosphere of constant change increases insecurity for refugees making claims to protection. For instance, Stewart and Mulvey (2014) document that the five-year cessation clause of the 2006 Immigration, Asylum and Nationality Act, whereby the UK government re-reviews asylum claims in five years to determine if refugees can be returned to their countries of origin, introduces heightened levels of insecurity for migrants that cuts across their family and working lives. Furthermore, regularity of immigration rule changes alone promotes fear and insecurity for refugees in the UK (Stewart and Mulvey, 2014). The UK landscape of protection has become, as Kasparek (2016: 1) writes in the case of the EU, characterised by the "many quick fixes and patches" that "threaten to become the ubiquitous modus operandi of government in the EU." Just as in Thailand, the UK works *within* legal frameworks to increasingly exclude refugees from protection, guided by the political pressures brought about by the increased flows of refugees. UK refugee governance increasingly resembles the 'wild west' political landscape of non-signatory countries like Thailand, superseding the Convention principles of consistent and non-arbitrary treatment of refugees.

IV. Graduated protection: differential treatment across the nation-state

The prohibitions against discrimination on common grounds within the Convention also imply that signatories must treat refugees similarly throughout the nation-state. The role of Contracting States is specifically written within the Convention to apply to all areas within national territories (UNHCR 2011). Consistent treatment, both in terms of *who refugees are* and *where they might be located,* is a core, implicit governing principle of the convention. The international criticism levelled at signatory nation Australia, for example, after its 2001 'excision' of areas for the purposes of making migration

claims, is based upon the notion that such differential treatment of refugees depending on their location is contrary to Convention principles. Yet the geography of refugee protections *within* nation-states is increasingly becoming unmoored from these Convention principles. In this section, I explore this geographically *graduated* treatment of refugees in Thailand and the UK.

Thailand legally refuses to recognise any refugees, but as with much 'official' policy in Thailand, the reality differs from this strict interpretation of the law. Refugees are considered to be 'illegal migrants' in the eyes of Thai law, but in reality, *who* refugees are and *where* they are located within Thailand determines their treatment by Thai layers of informal policy and practices. As Ong (2006: 7) writes with regards to sovereignty, such mobile and flexible incarnations of state practices across space contest a view of the singularity of the nation-state. The understanding of sovereignty that governs refugees has tended, as Hiemstra (forthcoming) writes, to preserve an understanding of a uniform and consistent state actor. This understanding of state activity related to refugees has begun to be challenged by scholars who focus on extraterritorial refugee management (Mountz, 2010) or the increasing encroachment of 'border' policing within the nation-state (Coleman, 2007), but nevertheless maintains a hold on refugee scholarship. In Thailand, the understanding of differentiated treatment of refugees echoes the treatment of citizenship as *graduated* (Ong, 2006) more broadly. As one refugee advocate explained, "The gradations in citizenship generally are an Asian thing, [refugees] are seen as groups of people" rather than a general category of persons needing protection, and across Thailand sovereign policy and migration enforcement are concentrated in certain locations and absent in others. I characterise an understanding of protection that is shaped by the location of the refugee *within* the nation-state as similarly 'graduated;' the gradations in protection shape not only the current experiences of refugees in different locations, but also how their possible futures become envisioned, suggesting the long-term unequal trajectory of graduated protection for the possible life course of the refugee.

The fates of refugees along the Thai-Myanmar border differ from those of other refugees within Thailand. While Thailand refuses to recognise the asylum seekers as 'refugees,' it *does* officially acknowledge their status as 'persons of concern' and has for years permitted a complex and layered system of NGOs to help to operate the camps. While the geographic location of the camps in remote border areas has always influenced the degree of leniency the Thai government has exhibited towards the Burmese asylum seekers, with the situation safely out of sight and out of mind, recent political changes within Myanmar have begun to influence the Thai treatment of asylum seekers in camps. Myanmar is now seen as open for economic development, highlighting possible futures for the camp population specific to their location, and thus adding a new and even further graduated element of protection for the Burmese asylum seekers that builds on their location within Thailand.

Advocates I spoke with from different organisations mentioned that the government was increasingly interested in the "captive labour force" of the Burmese asylum seeker population within the camps, who often have better education than residents of Myanmar and some familiarity with Thai language and society. Government officials were interested in taking advantage of this cross-border fluency offered by camp residents with new special economic zones along either the Thai or Myanmar sides of the border, which would harness some of the international excitement over development potential in Myanmar as well as deal with the problematic issue of camp residents reluctant to return to Myanmar. According to one advocate, the idea would not only 'solve' the problem of long-term camp residents, but also serve as a barrier to new labour migrants from Myanmar by providing the incentive of increased Thai wages without requiring migrants to cross the border. "A special economic zone along the land border has been the subject of a number of talks… the Thai private sector and the international community want to transition refugees to labour migrants. [Refugees] are seen by companies as being better qualified." The possibility of harnessing refugee labour is not a new one (e.g. Turner, 2015) but in this case, the excitement over the development of special economic zones is particular to the border location. As one advocate noted, "This government in particular cares about the borders, and developing specific policies related to

borders." 'Normalising' camp residents as economic migrants offers the government an alternative to the increasing dilemma of repatriation as well. Official registration of new arrivals by the UNHCR ceased in 2005, meaning that current camp residents are by and large not eligible for third country resettlement. Furthermore, the UNHCR has declared Myanmar safe for repatriation, and there is increasing pressure on camp residents to return, but thus far advocates note that most residents are reluctant to leave the camps. The case for special economic zones as a different possible future for refugees becomes all the more desirable when faced with camp residents who refuse to leave—but is only possible because of the geography of the camps and the graduated nature of protection afforded by the halfway official acknowledgement of this group of forced migrants.

The possibilities for refugees in other spaces within Thailand, however, are much more limited. Refugees from Myanmar living outside of the camps, scattered throughout Thailand and in many urban areas, receive no tacit forms of protection from the state. In an even more precarious situation are the nearly 10,000 urban refugees living in Thailand, whose Pakistani, Vietnamese, Tamil and Somalian backgrounds make them hypervisible in Bangkok's homogenous neighborhoods (Tat, 2014). Urban refugee numbers have climbed in recent years from little more than 2,000 to the nearly 10,000 that advocates believe currently live in Bangkok, with much of the increase due to over 5,000 Pakistani Christians and Ahmadi Muslims who have arrived in the past two years. Advocates note that most urban refugees, but in particular those from Pakistan, arrive on 30-day tourist visas, secure accommodation, then disappear. "They are subject to raids, arrests, and exploitation. They have no rights at all. Health care is impossible," described one advocate. Urban refugees represent an "unacknowledged phenomenon," according to another advocate.

Yet for these refugees too, the graduated nature of protection is also influenced by their location in terms of how their possible futures become envisioned. Despite the risks to refugees who leave their houses, funders envision a radically more self-sufficient future for these refugees because of their location in urban areas. Here, the graduated nature of protection involves NGO support, another

advocate described. “Being in urban areas, funders think people should support themselves, but it is illegal to work. Camps have basic assistance, housing, but organisations in Bangkok are stretched too thin to think to be able to provide anything to increasing numbers of urban asylum seekers.” However, it would be a mistake to interpret the precarious status of urban refugees as being ‘outside’ the Thai legal system—in fact, just as I argue above that Thai law interprets refugees as ‘illegal migrants’ to incorporate them *within* Thai legal frameworks, so too do the informal and tacit policy arrangements towards urban refugees acknowledge their existence and maintain their precarious position within Bangkok’s urban spaces. UNHCR is permitted to interview and conduct refugee status determinations for urban refugees, and the complex, informal system to bail these mainly urban refugees from detention centres also demonstrate their inclusion within the protection landscape in Thailand—but their location matters. In urban areas, the degree of precarity of everyday life for refugees is heightened, the tacit protection apparatus that envisions development potential for the camps entirely absent.

Paralleling the process of graduated protection of refugees based on their geographic location *within* the nation-state are strategies of refugee governance in the UK. Like in Thailand, *who* refugees are and in particular, *where* they are located, determines their access to asylum and everyday quality of life. Similar too are the potential futures that become imaginable for refugees in different spaces—their possible future lives characterised by a parallel type of graduated access to protection. A key mechanism for differentiating the forms of protection offered by the UK across the space of the nation state is the policy of dispersal. Under the 1999 Immigration and Asylum Act, asylum seekers who receive state support are bound to ‘no choice’ housing. ‘No choice’ housing was deliberately contracted out to local authorities and companies in locations other than southeast England in order, as Squire (2009) notes, to relieve the disproportionate burden on services in the southeast. By 2016, headlines in the *Daily Mirror* reported that some of the “poorest areas in Britain are being used as 'dumping grounds' for asylum seekers” (Wheatstone, 2016, p.1).

Dispersing asylum seekers across the UK translates into highly uneven outcomes for their asylum cases, according to Burridge and Gill (2017), who describe how no choice housing and dispersal policies consign asylum seekers to "legal deserts" where "uneven geographies of access" to advice and legal representation negatively affect their claims for protection. Piacentini (2014) tracks how dispersal policies, which separate asylum seekers from communities of support, legal representation, and even family members, are part of the UK's wider effort to increase the "hostile environment" for migrants in the UK, which culminated in additional restrictions under the Immigration Act 2014. Dispersal accompanies practices of poverty level support for asylum seekers and enforced destitution for refused asylum seekers, part of wider campaigns of deterrence that leave asylum seekers susceptible to increasing levels of precariousness and vulnerability to practices such as forced labour (Lewis and Waite, 2015). *Where* asylum seekers are located affects their probabilities of making successful claims for asylum, their abilities to maintain community and family support in the meantime, and even their potential for workplace exploitation.

Furthermore, dispersal and the increasingly graduated forms of protection that asylum seekers are able to access also translates into how possible futures for asylum seekers are envisioned. Squire (2009) describes how dispersal was enacted as part of a broader rationale of deterring migrants from seeking asylum. However, by framing the policy as sharing the 'burden' of asylum seeker support, Squire (2009: 128) argues that the UK government embedded within the practice "a logic of selective opposition" whereby exclusionary practices surrounding asylum seekers become the norm: positioning asylum seekers as 'burdens' envisioned their futures not as net contributors to new places, but continual detractors. Possible futures for asylum seekers were reduced to burdens to be moved, shifted, avoided, and isolated, a perspective that local authorities in dispersal areas have begun to adopt. As Wheatstone (2016: 1) writes, MP Simon Danczuk from Rochdale, north of Manchester, claimed the "dumping" of asylum seekers in his community is "upsetting the apple cart and it is creating tension." 'Burden sharing' projects asylum seekers' political futures as continued drains on bureaucratic and community life. Dispersal policies thus create forms of graduated

protection for refugees across the terrain of the nation-state, resulting in uneven access to protection, different forms of isolation and vulnerability, and differing understandings of the future potential of refugees themselves, outcomes that undermine the principles of consistent treatment laid out in the Convention.

V. Everyday survival

Ad hoc and arbitrary landscapes offering graduated access to protection jeopardizes refugees' attempts at everyday survival. The provisions within the Convention demanding treatment on par with what ordinary nationals of countries would receive imply that refugees should receive minimum levels of support during their asylum application process, and indeed, the provisions on freedom of movement and eventual ability to seek wage-earning employment indicate that signatories are supposed to provide refugees with the opportunities for everyday survival—if not more. Yet in non-signatory nations like Thailand, negotiating the hostile environment for refugees requires resources refugees often lack, and their inevitable slide into the category of 'illegal migrant' leaves them vulnerable to exploitation, severe poverty, confinement, arrest, detention, and deportation. This process is increasingly similar to what refugees face in signatory nations as well.

Even for migrants who begin their stay in Thailand legally, the complexities of the patchwork of regulations aimed at migrants means that migrants require resources—both financial and human—to negotiate the continued terms of their stay. False documents are reportedly easy to obtain in Thailand, and government officials are often involved in their production. As one advocate recalled, "Here there are many corrupt local officials who sell cards and close their eyes." Yet because of the complexity, expense and often impossibility for refugees to obtain real *or* false documentation within Thailand, they lead precarious lives as illegal migrants. As an advocate described, "Illegal status is the main problem for refugees we talk to. Financial issues people can find a way but with illegality the options are very limited." The long waits for resettlement mean that children are born stateless, without access to education and medical care.

Any type of mobility becomes a dangerous endeavour, with camp residents risking arrest to work illegally outside of the camp and urban refugees risking arrest or more to obtain food, funds from money transfers, or social support (Norum et al., 2016). As one advocate who works with camp residents described:

> Everyday it is like being in a prison. You can be arrested at any time. You always run the risk of being arrested, abused, detained, deported. Twenty five percent of camp residents were arrested in the past year, and they had to give bribes, greasing palms. There is a huge level of informal economy.

For urban refugees, another advocate who worked with detained migrants said: "The military government is obsessed with national security. Foreigners are perceived as risk or a potential threat. From February to April [2015] there were waves of arrests, over 300 including 120 children over a six-seven week period."

Everyday survival is a constant struggle for refugees with illegal status. Refugees will move frequently and avoid giving others' their address to avoid detection (Tat, 2014). An advocate who works with urban refugees recounted, "[Refugees] stay and survive with meagre means. They do factory work, drive lorries at markets, or sewing in the community. Most refugees are very visibly not Thai so that's problematic… They survive until someone gets ill, until something bad happens…" A patchwork of NGOs, social ties based on country of origin, and churches help to stave off refugees' destitution (Palmgren, 2013). The UNHCR issues an allowance, but the visibility of urban refugees in particular jeopardises that source of funding. A Bangkok advocate explained, "the police know where they are and who they are, and the landlord pays off the police. People know that the UN gives 'X' amount of money with the letter of recognition and refugees use it to pay off the authorities." Knowledge of the patterns of arrest and deportation also is a source of income for corrupt local officials, who would arrange transport for recently-deported refugees back to Bangkok, according to another advocate: "it's a money-making racket."

The often worst-case scenario for refugees living in these precarious conditions is arrest and detention, either in a prison or in the immigration detention system. Migrants arrested for

overstaying visas owe fees and if they cannot pay are taken to prison. Migrants without documentation owe upwards of 6,000 bhat (£129) or a two-month stay in prison, after which they are sent to the immigration detention centre until they can pay for their deportation (Palmgren, 2013). Conditions within Thailand's immigration detention system are notoriously poor and "inhuman and degrading treatment" by guards is also common (Collewet, 2012). One advocate recounted, "Those unable to be resettled can be in detention indefinitely… I knew a couple of cases of people spending over 10 years in detention." However, for all the dangers of detention life outside of detention is so desperate that advocates agreed some refugees will opt to stay in detention for the sake of the possibility of medication and regular, if very poor-quality, meals.

The precariousness of refugees' ability to survive daily life means that not all migrants in need of protection attempt to claim refugee status. As a Bangkok advocate explained, "they have the same persecutions but no protection status. They choose other methods of survival. There is a huge grey space available." Because refugees, particularly those within the border camps, are forbidden from engaging in work, migrants may avoid claiming refugee protections so they can look for jobs to survive. The ability to blend in as migrant workers may depend on the ethnicity of migrants, as those from neighbouring countries are more likely to live with relative freedom of movement. Recent forced migrants from Myanmar, for example, explained an advocate who worked in the border camps, "move into urban centres as migrants, they aren't coming as refugees." Indeed, for refugees across Thailand, "the informal fluidity that has developed between the category of 'refugee' and 'migrant' has become a necessary strategy for making life and management possible under restrictive Thai policy" (Saltsman, 2014, p.469). In such a context of extreme precariousness and questions of everyday survival, refugee status lacks the ability to protect forced migrants, even when they have escaped their initial persecution.

Similar caveats about the ability of refugee status to affect protection apply to the UK case. Indeed, as Zetter (2007: 181) notes, the fractioning of the label of 'refugee' has been a long-term political

strategy by signatories to limit access to asylum, encompassing extraterritorial interdiction and deterrence efforts to keep refugees from making claims in the first place, demonizing 'bogus' refugees through media and political rhetoric, and transforming the landscape of protection from one based on refugee *rights* to asylum *claims,* tactics he notes are "demarcated by the wholesale withdrawal or reduction of established rights." Like in Thailand, refugees' everyday survival is often made *more* dangerous because of their uncertain legal status as asylum seekers or refugees in the UK. For instance, over 3,500 migrants are detained indefinitely across the UK detention estate. The UK is the only European country that allows indefinite imprisonment of migrants as well as the detention of migrants in prisons, and detains more migrants than any country across the EU aside from Greece (Phelps et al., 2014). Conditions in detention have been documented to exemplify inhuman or degrading treatment, and deaths in dentition have prompted the UK Chief Inspector of Prisons, to note that, "a sense of humanity has been lost" (Phelps et al., 2014, p.3).

Yet the desperation of everyday survival is not limited to spaces of confinement in the UK. For example, the British Red Cross reported that UK asylum seekers and refugees are being forced into destitution during routine aspects of their asylum claims process. Many applicants whose claims are rejected may go on to win cases on appeal (upwards of 25 percent of whom are successful) and many more are unable to voluntarily return to their countries of origin as is mandated by the UK. These asylum seekers are supposed to receive support of approximately £35 per week plus accommodation under the UK's 'Section 4,' but many refuse to apply for fear of being deported. Asylum seekers who do receive Section 4 benefits have less than £5 per day to provide for their basic needs. Meanwhile, refugees who *receive* protection are also at risk of destitution, with their housing and benefits ending 28 days after they receive status (British Red Cross, 2013). Refugees depend on charity, faith-based support, and friends and relatives or risk malnutrition and homelessness as Geraldine's story reveals. Destitution is increasingly part of the asylum claims process in the UK, creating conditions of precariousness that resonate with the asylum seekers in Thailand.

VI. Refugees 'beyond' the Convention

Throughout this paper, I have used the case of non-signatory Thailand to explore some of the grey areas between official refugee protection as understood under the Convention and the dangers that face refugees in their countries of origin. Many refugees around the globe are seeking protection in countries that lack legal protection frameworks (e.g. Sanyal, forthcoming) and informal policy frameworks such as occur in Thailand structure their lives and possibilities. Increasingly, however, signatory status is no barrier to poor treatment of refugees, and the arbitrary and graduated landscapes of protection occurs in the UK context as well. The increasingly similar treatment of refugees regardless of location indicates that the Convention has become a façade for signatory countries, and the protection regime structured around nation-state signatories is disintegrating. Indeed, the constraints of the legal category of 'refugee' have limited the ability to trace common political geographic strategies cutting across the Convention divide, closing down opportunities to fully understand the experiences of forced migrants whose lives blur legal categories.

The focus of the Convention on countries within the Global North (Chimni, 1998) has been well documented, and state efforts even before the signing of the Convention have illustrated the continuity of both attempts to protect refugees as well as limit their access to protection (Orchard, 2017). However, trends amongst signatories known for being refugee settlement destinations in the 20th century—the US, Canada, Australia, and western Europe—demonstrate that limiting refugees' access to asylum has become increasingly common over the past few decades. Interdiction and extraterritorial border enforcement limits refugees' access to state territory (Mountz, 2010), punitive practices such as detention have intensified and proliferated since the 1980s (Loyd et al., 2016), and terms of protection have narrowed through the use of tacit and formal categorization of refugees (Zetter, 2007). The tenuous and often partial protections of the Convention have deteriorated, fundamentally remaking and fragmenting the concept of 'refugee' even as worldwide numbers of forced displacement are at their highest levels ever due to long-lasting conflicts, new

situations of insecurity and what the UNHCR terms a "falling trend" in the ability to find solutions for refugees and displaced people (Zetter, 2015; Edwards, 2016, p.1).

Importantly, the erosion of protections for refugees is not only happening in exceptional spaces beyond the reach of international law. Indeed, in Thailand as well as in the UK context, states are working within the scope of existing laws—especially through the form of 'soft law'—to limit protection for refugees. There exist a host of *legal* practices that produce illegal migrants, and these practices are contained—often without sufficient scrutiny—*within* the legal frameworks that govern refugee protection in signatory and non-signatory countries (Latt, 2013). Thailand's ability to host refugees since the 1970s, and the elaborate framework of informal practices governing refugee treatment such as border camps, detention and bail, and cooperation with international NGOs are all examples of how refugees are legally incorporated as 'illegal migrants' in Thailand. Such tacit legal frameworks that govern refugees' status, mobility, and livelihood possibilities are important parts of the landscapes of protection they navigate, and increasingly add to the personal costs of claiming refugee status, limit refugees' access to protection within the Convention—and 'beyond' (Sanyal, forthcoming). This analysis engages in comparison not to insist upon exact empirical similarities between the cases, but rather to suggest that a common analytical framework reveals very similar trends in *how* countries approach refugee governance.

The limits to protection under the Convention, and the possibilities for temporary existence for refugees in places like Thailand, 'beyond' its reach, also illustrate the importance of understanding refugee populations in terms of analysis beyond the nation-state. Whereas geographers have focused on the exceptional reach of the state in new spaces of refugee governance, such as the 100-mile reach of US border enforcement, Australia's excision from its own migration zone, or the Greek and Italian hotspots where rapid processing jeopardises migrants' access to asylum, we are just beginning to understand the importance of uneven treatment of refugees within the everyday, non-exceptional spaces of the nation-state. Spaces 'beyond' the reach of law are not always exceptional

in nature, as criticism of Agambenian exceptionalism has demonstrated (e.g. Pratt, 2005). The case of Thailand illustrates the graduated nature of protection within the space of the state itself, building on work such as Darling (2016) and Sanyal (2012) that explore the same unevenness of protection within urban spaces. As geographers move beyond framing the spaces of refugee management in the Global South in terms of climate migrants or sprawling camps, the unevenness of protection within the ordinary and everyday spaces of the nation-state deserves further investigation.

The implications of increasingly parallel treatment of refugees in signatory and non-signatory countries are important: they demonstrate the increasing ineffectiveness of the Convention as a global refugee protection regime. However, the promises of the Convention and the tendency to withhold scrutiny from signatory countries tend to camouflage the harm that arbitrary and differentiated practices can bring to vulnerable refugees regardless of location. Existing approaches that uncritically uphold the distinctions between signatory and non-signatory countries mask the important degree of 'soft laws' and tacit agreements structuring refugee governance, and the uneven, often inhumane treatment of refugees that results. The primacy of the nation-state framework in refugee law exacerbates the problem: assuming the cohesiveness of nation-state approaches and ignoring the important differences that geography *within* the nation-state makes to refugee treatment preserves the myth of Convention protection. What are needed are concerted efforts to both scale up efforts to protect refugees, reimagining terms of protection and even citizenship that transgress the bounds of the nation-state (Rygiel, 2016), and scale down protection at sub-national scales including the urban (Bauder, 2014). Yet states, too, should be held accountable for protection: as Rygiel (2016: 549) notes, it is only through political mobilizations demanding refugees rights to be "among the counted" that states are forced to recognize their right to have rights (c.f. Arendt, 1951). Refugee governance needs new models of dealing with people on the move beyond the nation-state: how can we understand the complex movements of people fleeing war, disaster, and the effects of climate change on different scales? The urgent needs of refugees demand new approaches 'beyond' the Convention.

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[i] I do, however, recognise that although the use of soft laws is increasingly common, soft laws underpinned by hard laws are differently enforceable. Thanks to Darshan Vigneswaran for making this point.